

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA**

JULIE SHEARMIRE,

Plaintiff,

vs.

Case No. 09-CV-646-FHM

MICHAEL J. ASTRUE,
Commissioner, Social Security
Administration,

Defendant.

OPINION AND ORDER

The Commissioner's Motion to Reverse and Remand for Further Administrative Proceedings. [Dkt. 17] is GRANTED.

The Commissioner asserts that a remand is needed in this case "so that the ALJ can re-evaluate Plaintiff's alleged impairments in accordance with the procedure set forth by relevant case law, regulations, and rulings." [Dkt. 47, p. 1]. Plaintiff agrees to the remand for consideration of the evidence related to disability prior to May 22, 2008. However, she asserts that the court should make an immediate award of benefits for the time after May 22, 2008, due to her age, inability to stand and walk, and the lack of transferable skills. To order an immediate award of benefits would cast the court in the role of fact-finder, which is not the appropriate role for the court in this case. *Casias v. Secretary of Health & Human Servs.*, 933 F.2d 799, 800 (10th Cir. 1991)(the court may neither reweigh the evidence nor substitute its judgment for that of the Commissioner). The court notes that to the extent Plaintiff's request for a remand for benefits relies on a finding that she lacks transferable skills, fact-finding would be required as the ALJ did not make a finding that Plaintiff lacked such skills. [Dkt. 15-4, p. 36].

SO ORDERED this 31st day of August, 2010.


FRANK H. McCARTHY
UNITED STATES MAGISTRATE JUDGE